



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

Case No.: 470-2011-02517

██████████,
Complainant,

vs.

MAGNA SERVICES OF AMERICA,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On June 27, 2011, ██████████ ("Complainant") filed a complaint with the Commission against Magna Services of America (Respondent) alleging discrimination on the basis of race, in violation of the Indiana Civil Rights Law (IC 22-9, et seq) ██████████. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue before the Commission is whether the Complainant was terminated due to his race. In order to prevail, Complainant must show that: (1) he is a member of a protected class; (2) he suffered an adverse employment action; (3) he was meeting Respondent's legitimate business expectations; and (4) employees of a different race were treated more favorably under similar circumstances.

It is evident that Complainant falls within a protected class by virtue of his race and that he suffered an adverse employment action when Respondent terminated him on May 11, 2011. The only remaining questions are whether Complainant was meeting his employer's expectations or, if not, whether Respondent treated similarly-situated employees of a different race more favorably.

The investigative record shows that Complainant was not meeting Respondent's legitimate business expectations. The evidence shows that Complainant was progressively disciplined for being involved in multiple forklift accidents, resulting in his termination. Witness testimony corroborates that Complainant had two forklift accidents on May 4, 2011, and another on May 6, 2011. However, Complainant identified a similarly-situated Caucasian employee that was not terminated for a similar infraction. Witness testimony substantiates Complainant's assertion that this employee was involved in more than one forklift accident, but Respondent did not terminate the employee. The evidence indicates that Respondent issued disciplinary action to the Caucasian employee, though Respondent contends that it is only aware of this employee being involved in



one accident. Although Respondent asserts Complainant and the Caucasian employee were the only two involved in forklift accidents, witness testimony indicates that Respondent has treated similarly-situated Caucasian employees involved in accidents more favorably than Complainant. Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

July 17, 2012
Date

Joshua S. Brewster, Esq.,
Deputy Director
Indiana Civil Rights Commission